

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FENGEMI LI,

Plaintiff,

vs.

RECELLULAR, INC.,

Defendant.

Case No. 09-11363

Stephen J. Murphy, III
United States District Judge

Michael Hluchaniuk
United States Magistrate Judge

**ORDER DENYING PLAINTIFF'S MOTION FOR
APPOINTMENT OF COUNSEL WITHOUT PREJUDICE (Dkt. 3)**

This matter is before the Court on plaintiff's motion for appointment of counsel. (Dkt. 3). Plaintiff brings this action against defendant claiming violations the Elliott-Larsen Civil Rights Act, Title VII, the Whistleblower Protection Act, and the Whistleblower Protection Act under the Solid Waste Disposition Act, Toxic Substances Control Act, and various other state and federal statutes and Michigan common law. (Dkt. 1).

An order granting plaintiff's application to proceed *in forma pauperis* and directing service of process on defendant was entered on April 17, 2009. (Dkt. 4). On April 23, 2009, District Judge Steven J. Murphy, III, referred this matter to the undersigned for all pretrial purposes. (Dkt. 10). Plaintiff filed an application for

the appointment of counsel on April 10, 2009. (Dkt. 3). While plaintiff completed the financial affidavit in support of his application for the appointment of counsel, she provided no reasons in support of her request.

Under 28 U.S.C. § 1915(e)(1), a federal court may request an attorney to represent an indigent plaintiff. *Reneer v. Sewell*, 975 F.2d 261 (6th Cir. 1992). Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases where exceptional circumstances exist, or in certain cases, only after a motion to dismiss or for summary judgment has been decided. In order to make the determination whether there are exceptional circumstances to appoint counsel, the Court considers the type of case involved, plaintiff's ability to represent herself, as well as the complexity of the case, and also whether the claims being presented are frivolous or have a small likelihood of success. *Reneer*, 975 F.2d at 261; *Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1995).

It appears that, from reading the complaint and other documents submitted by plaintiff, she has an adequate understanding of the matters involved in this case, and is able to articulate her claims and arguments in a reasonable fashion. It also appears that the issues raised in her complaint are straightforward and understandable and not of an unduly complex nature. Should plaintiff survive a

motion to dismiss or summary judgment in this matter, plaintiff may re-file her motion for the appointment of counsel. Plaintiff's motion for appointment of counsel is **DENIED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), any objections must be served on this Magistrate Judge.

Date: May 20, 2009

s/Michael Hluchaniuk
Michael Hluchaniuk
United States Magistrate Judge

CERTIFICATE OF SERVICE

I certify that on May 20, 2009, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: F. Arthur Jones, II and Melvin J. Muskovitz, and I certify that I mailed by United States Postal Service the paper to the following non-ECF participant: Fengmei Li, 3092 Village Circle, Ann Arbor, MI 48108.

s/James P. Peltier
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